

Representative James A. Dunnigan proposes the following substitute bill:

OPTOMETRIST PRACTICE AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends the Utah Optometry Practice Act.

Highlighted Provisions:

This bill:

- ▶ amends provisions relating to the supervision of an optometric assistant;
- ▶ amends provisions relating to the scope of practice of an optometrist; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-16a-102, as last amended by Laws of Utah 2020, Chapter 339

58-16a-302, as last amended by Laws of Utah 2020, Chapter 339

58-16a-601, as last amended by Laws of Utah 2017, Chapter 292

Be it enacted by the Legislature of the state of Utah:



26 Section 1. Section **58-16a-102** is amended to read:

27 **58-16a-102. Definitions.**

28 In addition to the definitions in Section **58-1-102**, as used in this chapter:

29 (1) "Board" means the Optometrist Licensing Board created in Section **58-16a-201**.

30 (2) "Contact lens" means any lens that:

31 (a) has a spherical, cylindrical, or prismatic power or curvature;

32 (b) is made pursuant to a current prescription; and

33 (c) is intended to be worn on the surface of the eye.

34 (3) (a) "Contact lens prescription" means a written or verbal order for contact lenses
35 that includes:

36 (i) the commencement date of the prescription;

37 (ii) the base curve, power, diameter, material or brand name, and expiration date;

38 (iii) for a written order, the signature of the prescribing optometrist or physician; and

39 (iv) for a verbal order, a record maintained by the recipient of:

40 (A) the name of the prescribing optometrist or physician; and

41 (B) the date when the prescription was issued or ordered.

42 (b) A prescription may include:

43 (i) a limit on the quantity of lenses that may be ordered under the prescription if

44 required for medical reasons documented in the patient's files; and

45 (ii) the expiration date of the prescription, which shall be two years from the

46 commencement date, unless documented medical reasons require otherwise.

47 (c) When a provider prescribes a private label contact lens for a patient the prescription
48 shall include:

49 (i) the name of the manufacturer;

50 (ii) the trade name of the private label brand; and

51 (iii) if applicable, the trade name of the equivalent national brand.

52 (4) "Contact lens prescription verification" means a written request from a person who
53 sells or provides contact lenses that:

54 (a) is sent to the prescribing optometrist or physician; and

55 (b) seeks the confirmation of the accuracy of a patient's prescription.

56 (5) "Eye and its adnexa" means the human eye and all structures situated around and

57 within the orbit, including the conjunctiva, lids, lashes, and lacrimal system.

58 (6) "Fitting of a contact lens" means:

59 (a) the using of a keratometer to measure the human eye;

60 (b) utilizing refractive data provided by a licensed optometrist or ophthalmologist; and

61 (c) trial fitting of contact lenses, which includes a period of time for evaluation for fit

62 and performance, to determine a tentative contact lens prescription for a patient if the patient:

63 (i) has not worn contact lenses before; or

64 (ii) has changed to a different type or base curve.

65 (7) "Laser surgery" means surgery in which human tissue is cut, burned, or vaporized

66 by means of laser or ionizing radiation.

67 (8) "Ophthalmic lens" means any lens used to treat the eye and that:

68 (a) has a spherical, cylindrical, or prismatic power;

69 (b) is made pursuant to an unexpired prescription; and

70 (c) is intended to be used in eyeglasses or spectacles.

71 (9) "Optometric assistant" means an [~~unlicensed~~] individual who is not licensed under
72 this chapter:

73 (a) working under the [~~direct and immediate~~] indirect supervision of a licensed
74 optometrist; and

75 (b) engaged in specific tasks assigned by the licensed optometrist in accordance with
76 the standards and ethics of the profession.

77 (10) "Optometrist" or "optometric physician" means an individual licensed under this
78 chapter.

79 (11) "Optometry" and "practice of optometry" mean any one or any combination of the
80 following practices:

81 (a) examination of the human eye and its adnexa to detect and diagnose defects or
82 abnormal conditions;

83 (b) determination or modification of the accommodative or refractive state of the
84 human eye or its range or power of vision by administration and prescription of pharmaceutical
85 agents or the use of diagnostic instruments;

86 (c) [~~prescription, ordering, administration, or adaptation of~~] prescribing, ordering,
87 administering, or adapting ophthalmic lenses, contact lenses, ophthalmic devices,

88 pharmaceutical agents, laboratory tests, or ocular exercises to diagnose and treat diseases,
89 defects, or other abnormal conditions of the human eye and its adnexa;

90 (d) display of any advertisement, circular, sign, or device offering to:

91 (i) examine the eyes;

92 (ii) fit glasses or contact lenses; or

93 (iii) adjust frames;

94 (e) removal of a foreign body from the eye or its adnexa, that is not deeper than the
95 anterior 1/2 of the cornea; and

96 (f) consultation regarding the eye and its adnexa with other appropriate health care
97 providers, including referral to other appropriate health care providers.

98 (12) "Pharmaceutical agent" means any diagnostic or therapeutic drug or combination
99 of drugs that has the property of assisting in the diagnosis, prevention, treatment, or mitigation
100 of abnormal conditions or symptoms of the eye and its adnexa.

101 (13) "Physician" has the same meaning as defined in Sections [58-67-102](#) and
102 [58-68-102](#).

103 (14) "Prescription drug" has the same definition as in Section [58-17b-102](#).

104 (15) "Unexpired" means a prescription that was issued:

105 (a) for ophthalmic lenses which does not expire unless the optometrist or physician
106 includes an expiration date on the prescription based on medical reasons that are documented
107 in the patient's file; and

108 (b) in accordance with Subsection (3) for a contact lens.

109 Section 2. Section **58-16a-302** is amended to read:

110 **58-16a-302. Qualifications for licensure.**

111 (1) An applicant for licensure as an optometrist shall:

112 (a) submit an application in a form prescribed by the division;

113 (b) pay a fee as determined by the division under Section [63J-1-504](#);

114 (c) (i) be a doctoral graduate of a recognized school of optometry accredited by the
115 American Optometric Association's Accreditation Council on Optometric Education; or

116 (ii) be a graduate of a school of optometry located outside the United States that meets
117 the criteria that would qualify the school for accreditation under Subsection (1)(c)(i), as
118 demonstrated by the applicant for licensure;

119 (d) if the applicant graduated from a recognized school of optometry prior to July 1,
120 1996, have successfully completed a course of study [~~satisfactory to~~] approved by the division,
121 in consultation with the board, in general and ocular pharmacology and emergency medical
122 care;

123 (e) have passed examinations approved by the division in consultation with the board
124 that include:

125 (i) a standardized national optometry examination;

126 (ii) a standardized clinical examination; and

127 (iii) a standardized national therapeutics examination; and

128 (f) meet with the board and representatives of the division, if requested by either party,
129 for the purpose of evaluating the applicant's qualifications for licensure.

130 (2) Notwithstanding Subsection (1) and Section [58-1-302](#), the division shall issue a
131 license under this chapter by endorsement to an individual who:

132 (a) submits an application for licensure by endorsement on a form approved by the
133 division;

134 (b) pays a fee established by the division in accordance with Section [63J-1-504](#);

135 (c) verifies that the individual is licensed as an optometrist in good standing in each
136 state of the United States, or province of Canada, in which the individual is currently licensed
137 as an optometrist; and

138 (d) has been actively engaged in the legal practice of optometry for at least 3,200 hours
139 during the immediately preceding two years in a manner consistent with the legal practice of
140 optometry in this state.

141 Section 3. Section [58-16a-601](#) is amended to read:

142 **[58-16a-601](#). Scope of practice.**

143 (1) An optometrist may:

144 (a) provide [~~optometric~~] services not specifically prohibited under this chapter or
145 division rules if the services are within the optometrist's training, skills, and scope of
146 competence; [~~and~~]

147 (b) subject to Subsection (1)(c), prescribe or administer pharmaceutical agents for the
148 eye and its adnexa, including oral agents[~~, subject to the following conditions:~~];

149 [~~(i) an optometrist may prescribe oral antibiotics for only eyelid-related ocular~~]

150 conditions or diseases, and other ocular conditions or diseases specified by division rule; and]

151 ~~[(ii) an optometrist may]~~ (c) administer or prescribe a hydrocodone combination drug,
152 or a Schedule III controlled substance[-] as defined in Section 58-37-4, only if:

153 ~~[(A)]~~ (i) the substance is administered or prescribed for pain of the eye or adnexa;

154 ~~[(B)]~~ (ii) the substance is administered orally or topically or is prescribed for oral or
155 topical use;

156 ~~[(C)]~~ (iii) the amount of the substance administered or prescribed does not exceed a
157 72-hour quantity; and

158 ~~[(D)]~~ (iv) if the substance is prescribed, the prescription does not include refills[-]; and

159 (d) subject to Subsections (2) and (3), perform the following laser surgical procedures
160 if the procedure is within the optometrist's training, skills, and scope of competence:

161 (i) a laser capsulotomy;

162 (ii) a laser trabeculoplasty;

163 (iii) a laser peripheral iridotomy; and

164 (iv) a laser surgical procedure that is:

165 (A) similar to the procedures described in Subsection (1)(d)(i) through (iii);

166 (B) is taught as part of a doctoral program in optometry at a recognized school of
167 optometry accredited by the American Optometric Association's Accreditation Council on

168 Optometric Education; and

169 (C) is approved by the division under Subsection (5).

170 (2) An optometrist may not:

171 (a) perform ~~[surgery, including]~~ a laser surgery[-; or]
172 under Subsection (1)(d) that the
optometrist is not qualified to perform;

173 (b) perform:

174 (i) retina surgery, including scleral buckle surgery;

175 (ii) laser refractive surgery of the ocular anterior segment, including laser-assisted in
176 situ keratomileusis (LASIK) and photorefractive keratectomy (PRK);

177 (iii) penetrating keratoplasty or lamellar keratoplasty;

178 (iv) surgical extraction of the crystalline lens;

179 (v) surgical implantation of intraocular lens implants;

180 (vi) incisional or excisional surgery of the extraocular muscles;

181 (vii) incisional ocular surgery for the treatment of glaucoma; or
182 (viii) non-laser surgery of the eyelid for:
183 (A) eyelid malignancies;
184 (B) incisional cosmetic or mechanical repair of blepharochalasis; or
185 (C) ptosis; or
186 ~~[(b)] (c) except as provided in Subsection (1)(c), prescribe or administer a Schedule II~~
187 ~~controlled substance[;] as defined in Section 58-37-4[, except for a hydrocodone combination~~
188 ~~drug, if so scheduled and prescribed or administered in accordance with Subsection (1)(b)].~~
189 (3) An optometrist may perform a procedure described in Subsection (1)(d) only if:
190 (a) the optometrist has successfully completed:
191 (i) training in the use of the procedure as a condition of the optometrist's graduation
192 from a doctoral program under Subsection 58-16a-302(1)(c);
193 (ii) a course approved by the division that includes a live patient encounter; or
194 (iii) (A) a course approved by the division that does not include a live patient
195 encounter; and
196 (B) proctored training for the procedure on a live patient that is completed no more
197 than two years before the day on which the optometrist performs the procedure;
198 (b) if an optometrist has not performed the procedure within the previous five year
199 period, the optometrist has successfully completed a proctored training for the procedure no
200 more than two years before the day on which the optometrist perform the procedure; and
201 (c) the optometrist is available to provide emergency care outside of normal business
202 hours to a patient upon whom the optometrist performs the procedure.
203 (4) Proctored training under Subsection (3) may be proctored by an individual who:
204 (a) is trained and experienced in the procedure being proctored; and
205 (b) (i) (A) is licensed in good standing as a physician in the state or a state or territory
206 of the United States outside of Utah; and
207 (B) specializes in ophthalmology; or
208 (ii) (A) is licensed in good standing as an optometrist in the state or a state or territory
209 of the United States outside of Utah; and
210 (B) teaches and performs the procedure at a post-graduate medical training program or
211 school of optometry that is accredited or recognized by the division.

212 (5) The division, in consultation with the board, shall make rules in accordance with
213 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying:

214 (a) if applicable, additional laser surgical procedures that an optometrist may perform
215 under Subsection (1)(d)(iv); and

216 (b) courses that satisfy the requirements in Subsections (3)(a)(ii) and (iii).

217 ~~[(3)]~~ (6) For purposes of Sections 31A-22-618 and 31A-45-303, an optometrist is a
218 health care provider.

218a ~~Ĥ~~→ **(7) In a malpractice action against a health care provider under Title 78B, Chapter 3, Part**
218b **4, Utah Health Care Malpractice Act, for a procedure described in Subsection (1)(d), an**
218c **optometrist shall be held to the same standard of care as a physician specializing in**
218d **ophthalmology.** ←~~Ĥ~~